



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 220630-0148]

RIN 0648-BL22

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Resources of the Gulf of Mexico; Catch Limits for Red Grouper

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS implements management measures described in a framework action under the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP) as prepared by the Gulf of Mexico Fishery Management Council (Council). This final rule increases commercial and recreational catch levels for red grouper in the Gulf of Mexico (Gulf). The purpose of this final rule is to prevent overfishing of red grouper and to achieve optimum yield (OY) from the stock.

DATES: This final rule is effective on *[insert date 30 days after date of publication in the FEDERAL REGISTER]*.

ADDRESSES: Electronic copies of the framework action may be obtained from the Southeast Regional Office website at <https://www.fisheries.noaa.gov/action/modification-gulf-mexico-red-grouper-catch-limits>. The framework action

includes an environmental assessment, a fishery impact statement, a Regulatory Flexibility Act analysis, and a regulatory impact review.

FOR FURTHER INFORMATION CONTACT: Dan Luers, NMFS Southeast Regional Office, telephone: 727-824-5305, email: *daniel.luers@noaa.gov*.

SUPPLEMENTARY INFORMATION: NMFS and the Council manage the Gulf reef fish fishery, including red grouper, under the FMP. The Council prepared the FMP and NMFS implements the FMP through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

On May 3, 2022, NMFS published a proposed rule in the **Federal Register** to implement the management measures described in the framework action and requested public comment (87 FR 26178). The proposed rule and the framework action provide additional background and rationale for the actions contained in this final rule. A summary of the management measures described in the framework action and implemented through this final rule is described below. All weights described in this final rule are in gutted weight.

Red grouper in the Gulf exclusive economic zone is found primarily in offshore areas of the eastern Gulf with hard bottom, that is, bottom structure with relief that attracts fish. Red grouper is managed as a single stock with commercial and recreational annual catch limits (ACLs)

and annual catch targets (ACTs). Prior to June 1, 2022, the stock ACL was allocated 76 percent to the commercial sector and 24 percent to the recreational sector. On June 1, 2022, NMFS implemented the final rule for Amendment 53 to the FMP, which modified the allocation of the red grouper stock ACL to 59.3 percent for the commercial sector and 40.7 percent for the recreational sector (87 FR 25573, May 2, 2022). Amendment 53 and its implementing final rule also adjusted the catch levels for red grouper based on the results of a 2019 stock assessment (Southeast Data, Assessment, and Review (SEDAR) 61). As specified in Amendment 53, the current overfishing limit (OFL) and acceptable biological catch (ABC) are 4.66 million lb (2.11 million kg) and 4.26 million lb (1.93 million kg), respectively. The red grouper stock ACL is equal to the ABC.

Subsequent to the management measures the Council recommended in Amendment 53, the Council recommended further revisions to red grouper catch levels based on an interim analysis conducted by the NMFS Southeast Fishery Science Center (SEFSC). This interim analysis indicated that Gulf red grouper harvest levels could be increased. The Council's Scientific and Statistical Committee (SSC) agreed with the results of the interim analysis and recommended increasing the overfishing limit (OFL) to 5.99 million lb (2.72 million kg) and increasing the acceptable

biological catch (ABC) to 4.96 million lb (2.25 million kg). Based on the SSC recommendations, the Council revised the catch limits and approved this framework action at its October 2021 meeting.

Management Measures Contained in this Final Rule

This final rule revises the ACLs and ACTs for Gulf red grouper consistent with the sector allocations established in Amendment 53 and implemented by the associated final rule (87 FR 25573, May 2, 2022). This final rule increases the total ACL for Gulf red grouper from 4.26 million lb (1.93 million kg) to 4.96 million lb (2.25 million kg).

Using the sector allocations approved in Amendment 53 and implemented by NMFS on June 1, 2022, this final rule increases the commercial ACL and ACT from 2.53 million lb (1.15 million kg) and 2.40 million lb (1.09 million kg) to 2.94 million lb (1.33 million kg) and 2.79 million lb (1.27 million kg), respectively.

For the recreational sector, this final rule increases the recreational ACL and ACT from 1.73 million lb (0.78 million kg) and 1.57 million lb (0.71 million kg) to 2.02 million lb (0.92 million kg) and 1.84 million lb (0.83 million kg), respectively.

Comments and Responses

NMFS received 12 public comments on the proposed rule from individuals, commercial and recreational fishing associations, and a sportfishing trade organization. The

majority of the public comments supported the proposed action. Some of the comments requested that NMFS revise the allocation of the red grouper stock ACL between the commercial and recreational sectors. These comments are outside the scope of the proposed rule and framework action, and therefore, are not addressed further in this final rule. NMFS acknowledges the comments in favor of all or part of the proposed rule, and agrees with them. Comments that are opposed to the proposed rule expressed concern about the health of the red grouper stock. These comments are grouped and summarized below, and NMFS' response follows.

Comment: NMFS should not increase the red grouper catch limits at this time. Red grouper in the Gulf is struggling. The Council and NMFS should consider waiting at least 1 or 2 years to let the red grouper stock grow to a greater level before increasing the catch limits.

Response: NMFS disagrees. Maintaining the current ACLs and ACTs is not consistent with the best scientific information available, which indicates that the red grouper stock can support higher catch limits. Amendment 53 and its implementing final rule set catch limits based on SEDAR 61, the most recent stock assessment for Gulf red grouper, which was completed in September 2019. However, in 2021, the SEFSC made two adjustments to the SEDAR 61 estimates. First, the SEFSC found that the SEDAR 61 assessment model

underestimated the average size of red grouper caught recreationally by about 2.1 lb (0.9 kg) per fish. When the SEFSC ran the SEDAR 61 model using the new recreational weight estimates, the results indicated that an increase in catch limits was appropriate. Second, the SEFSC performed an interim analysis to update SEDAR 61 catch level projections that incorporated the recreational per-fish weight adjustments and used the NMFS Bottom Longline Survey as the index of abundance, which showed an increase in the number of fish and also indicated that catch limit increases were appropriate. In August 2021, the Council's SSC reviewed these two analyses, agreed that the Gulf red grouper stock could support additional harvest, and recommended increases in the OFL and ABC. The Council approved increases to the catch limits implemented through this final rule at its October 2021 meeting. NMFS agrees with the SSC and the Council that the best scientific information available supports increasing the red grouper catch limits, and that these revised catch limits will help achieve OY on a continuing basis while preventing overfishing.

Classification

Pursuant to section 304(b)(3) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this final rule is consistent with the framework action,

the FMP, other provisions of the Magnuson-Stevens Act, and other applicable laws.

This final rule has been determined to be not significant for purposes of Executive Order 12866. The Magnuson-Stevens Act provides the legal basis for this final rule. No duplicative, overlapping, or conflicting Federal rules have been identified.

A description of this final rule, why it is being considered, and the purpose of this final rule are contained in the **SUMMARY** and **SUPPLEMENTARY INFORMATION** sections of this final rule. The objectives of this final rule are to revise the ACLs and ACTs for Gulf red grouper consistent with the best scientific information available, and to continue to achieve OY consistent with the requirements of the Magnuson-Stevens Act.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration (SBA) during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule and is not repeated here. NMFS did not receive any comments from SBA's Office of Advocacy or the public regarding the certification in the proposed rule. As a result, a regulatory flexibility analysis was not required and none was prepared.

This final rule contains no information collection requirements under the Paperwork Reduction Act of 1995.

List of Subjects in 50 CFR Part 622

Fisheries, Fishing, Gulf of Mexico, Red grouper, Reef fish.

Authority: 16 U.S.C. 1801 et seq.

Dated: July 1, 2022.

Samuel D. Rauch, III

Deputy Assistant Administrator for Regulatory Programs,

National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 622 is amended as follows:

PART 622--FISHERIES OF THE CARIBBEAN, GULF OF MEXICO, AND SOUTH ATLANTIC

1. The authority citation for part 622 continues to read as follows:

Authority: 16 U.S.C. 1801 et seq.

2. In § 622.39, revise paragraph (a)(1)(iii)(C) to read as follows:

§ 622.39 Quotas.

* * * * *

(a) * * *

(1) * * *

(iii) * * *

(C) *Red grouper*. 2.79 million lb (1.27 million kg).

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3. In § 622.41, revise the last sentence of paragraph

(e)(1) and paragraph (e)(2)(iv) to read as follows:

§ 622.41 Annual catch limits (ACLs), annual catch targets (ACTs), and accountability measures (AMs).

* * * * *

(e) * * *

(1) * * * The commercial ACL for red grouper in gutted weight is 2.94 million lb (1.33 million kg).

(2) * * *

(iv) The recreational ACL for red grouper in gutted weight is 2.02 million lb (0.92 million kg). The recreational ACT for red grouper in gutted weight is 1.84 million lb (0.83 million kg).

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